



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2013

Mr. Frank Garza
For Brownsville Public Utility Board
Davidson, Trolio, Ream & Garza, P.C.
7550 West Interstate 10, Suite 800
San Antonio, Texas 78229-5815

OR2013-18725

Dear Mr. Garza:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 503553.

The Brownsville Public Utility Board (the "board") received a request for 24 categories of financial information for the 2011 and 2012 fiscal years. The board will seek clarification for a portion of the request. The board will release some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). Section 552.133 provides in relevant part:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

(a) In this section, “public power utility” means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, “competitive matter” means a utility-related matter that is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

...

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

Id. § 552.133(a), (a-1)(1)(B), (F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

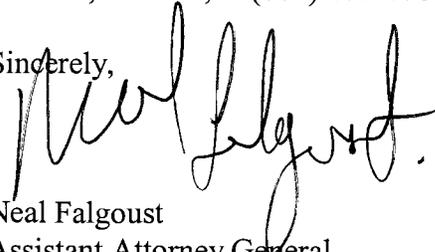
You state the board is a public power utility subject to section 552.133. You assert the responsive information pertains to the public power utility’s “competitive customer information.” We understand you to assert the information at issue pertains to the board’s competitive activity, specifically identified by subsection 552.133(a-1)(1)(B) and (F). Further, the information at issue is not among the fifteen categories of information expressly excluded from the definition of “competitive matter” by section 552.133(a-1)(2). Thus, based on your representations and our review, we find the information at issue relates to competitive matters as defined by section 552.133(a-1). Accordingly, we conclude the board must withhold the information at issue under section 552.133 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open_orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a large initial "N" and "F".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 503553

Enc. Submitted documents

c: Requestor
(w/o enclosures)